

**STATEMENT OF PROCEEDINGS FOR THE
SPECIAL MEETING OF THE
CITY OF MONTEBELLO OVERSIGHT BOARD**

**CITY OF MONTEBELLO
CITY COUNCIL CHAMBERS
1600 WEST BEVERLY BOULEVARD
MONTEBELLO, CALIFORNIA 90640**

Wednesday, February 26, 2014

8:15 AM

AUDIO LINK FOR THE ENTIRE MEETING (14-1413)

Attachments: [Audio](#)

I. CALL TO ORDER

Vice Chair Hidalgo called the meeting to order at 8:30 a.m.

II. ROLL CALL

Tanya Ruiz, Oversight Board Staff, called the roll:

Present: Board Members Angel F. Barnuevo, Edgar Cisneros, Vanessa Delgado, Cheryl A. Plotkin and Vice Chair Ernesto Hidalgo

Absent: Chair Richard Bruckner

Vacancies: Board Member Community College Appointee

III. STAFF COMMUNICATIONS

This time is set aside for Successor Agency staff to update the Board on important items initiated by staff or previously requested by the Oversight Board.

Francesca Tucker-Schuyler, City Administrator announced that Mayor Pro-Tem Jack Hadjinian was present in the audience. Ms. Tucker-Schuyler also recommended that the Oversight Board agendaize Public Comment to the top of the agenda due to the large amount of public speakers in the audience. Mark Huebsch, Oversight Board Legal Counsel, advised that general public comment should be separated from comments addressed on a specific item. Vice Chair Hidalgo recommended that Agenda Item 4 be moved to the top of the agenda.

By Common Consent, there being no objection (Chair Bruckner being absent), the Board advanced Agenda Item 4 to the top of the agenda.

IV. ADMINISTRATIVE MATTERS

1. Self-Introduction of newly appointed Oversight Board member. (14-0883)

Vice Chair Hidalgo announced the newest Board Member of the Montebello Oversight Board. Board Member Vanessa Delgado introduced herself and expressed her readiness to serve as an Oversight Board Member, assisting the City of Montebello.

V. RECOMMENDATIONS

2. Recommendation: Adopt a resolution, approving a Repayment Schedule for amounts owed to the low and moderate income housing fund of the former Community Redevelopment Agency of the City of Montebello. (14-0874)

During this time, agenda item 4 was heard. Immediately following action on agenda item 4, the Board then moved on to agenda item 2.

Vice Chair Hidalgo inquired whether a separate action was required for the Repayment Schedule, since the item was addressed during the Recognized Obligation Payment Schedule (ROPS) discussion. Chris Cardinale, Successor Agency Legal Counsel, informed that per the Department of Finance (DOF), a separate action item affirmatively approving a Repayment Schedule was required.

On motion of Board Member Plotkin, seconded by Vice Chair Hidalgo, duly carried by the following vote, the Board adopted a Resolution, approving a Repayment Schedule for amounts owed to the low and moderate income housing fund of the former Community Redevelopment Agency of the City of Montebello.

Ayes: 5 - Board Members Barnuevo, Cisneros, Delgado, Plotkin and Vice Chair Hidalgo

Absent: 1 - Chair Bruckner

Vacancies: 1 - Board Member Appointee

Attachments: [Staff Report, Repayment Schedule, and Resolution](#)

3. Recommendation: Adopt a resolution approving the Successor Agency Administrative Budget for the period of July 1, 2014 through June 30, 2015. (14-0505)

On motion of Board Member Cisneros, seconded by Board Member Barnuevo, duly carried by the following vote, the Board adopted a Resolution, approving the Successor Agency Administrative Budget for the period of July 1, 2014 through June 30, 2015:

Ayes: 5 - Board Members Barnuevo, Cisneros, Delgado, Plotkin and Vice Chair Hidalgo

Absent: 1 - Chair Bruckner

Vacancies: 1 - Board Member Appointee

Attachments: [Staff Report, Admin Budget 14-15A, and Resolution](#)

4. Recommendation: Adopt a resolution approving the Recognized Obligation Payment Schedule for the Montebello Successor Agency for the July 1, 2014 through December 31, 2014 payment period (ROPS 14-15A). (14-0504)

This agenda item was taken out of order and discussed immediately following agenda item 1.

The following speakers addressed the Board in favor and in support of the Oversight Board's approval of the Recognized Obligation Payment Schedule (ROPS), with respect to line items 39-42 - Retirement Pension Tax Revenues, with the argument that project area Retirement Tax Override revenues should be allocated to the City of Montebello:

Jaclyn Carr
Scott Howard
Luis Lopez
Linda Nicholas
Michael Age
Delia Delgado
Jerry Banuelos
David Sosnowski

It was observed that Councilwoman Vivian Romero was also in attendance and in support of the Retirement Pension Tax Items listed on the ROPS.

Chris Cardinale, Successor Agency Legal Counsel, delivered a staff report and update on ROPS 14-15A, highlighting and explaining in detail the following new items which were added to the new ROPS period:

Items 36 and 37: Low Mod Housing Deferral / SERAF

Items 38 and 46: Reimbursement Agreement Re 2000 COPs

Items 39 through 42: Retirement Pension Tax Revenues

Items 43 and 44: Oversight Board / Successor Agency Litigation Fees

Item 45: AB 471 Allocation (Housing Successor Administrative Cost Allowance)

Mark Huebsch, Oversight Board Legal Counsel, provided his review and recommendations on the new items added to the ROPS.

Item 36 and 47: Mr. Huebsch indicated that he has no issues with the repayment schedule, however noted that the repayment schedule does not list a percentage rate. Mr. Cardinale answered that the repayment schedule is at a zero percent rate.

Items 38 and 46: Mr. Huebsch explained that the Department of Finance (DOF) disagreed with the Oversight Board's ratification of the Prepayment Agreement and the Oversight Board had previously expressed a preference to honor the agreement. Mr. Huebsch indicated what the Oversight Board would not want to occur, is to have the monies stay with the City under the prepayment agreement and have the item listed as a ROPS item. Mr. Huebsch suggested adding language in the Resolution indicating that the item is only included on the ROPS until such time the DOF recognizes the repayment agreement.

Items 39 through 42: Mr. Huebsch explained that the concern with items 39-42 is in regards to the treatment of the property tax override revenues. He added that the City of Montebello's override rate dates back to the 1970's when the Montebello voters approved a real property tax to help fund the City's participation in "State Employees Retirement System." Mr. Huebsch concluded that the issue in front of the Board is whether to take a position that the Redevelopment Property Tax Trust Funds (RPTTF) should include all of the taxes, or, to disagree with the DOF in that the action is not consistent with the Boards intentions and that the rates should flow to the entities that impose the override rates.

Items 43 and 44 - Mr. Huebsch indicated both are legitimate items and added that per the direction at the last Oversight Board meeting, and with Successor Agency Counsel, a stipulation was prepared and entered into agreement, whereby the Oversight Board will implement whatever actions are resolved between the DOF and Montebello, in an effort to minimize attorney fees that the OB would otherwise incur.

Item 45 - Mr. Huebsch indicated that based on his review of the new law AB 471, the housing successor allowance is not available to a City that is a Housing Successor, however informed that it is at the purview of the Board as to whether to include on the ROPS and allow the City of Montebello to make its argument to the DOF, or exclude the item based on the theory that the statute does not provide for the City to receive the allowance, only the housing authority.

Board Member Delgado asked if any other cities have attempted the same process. Mr. Huebsch replied that he does not currently know of any city who has taken the same approach, however since the law was recently enacted, it is likely other cities will follow the same approach. Mr. Cardinale added that he too believes other cities will follow with the same method if they have not already yet done so.

Vice Chair Hidalgo asked that if the Oversight Board was to approve item 45, would there be any negative ramifications if the state later found the item to be impermissible, or would the State ruling override any ruling the Board decides. Mr. Huebsch responded that ultimately the DOF has the final say, subject to being overruled in litigation. Vice Chair Hidalgo questioned whether the Oversight Board takes the approach of not including certain items on the ROPS, then later goes on to litigation with the State and is found to be permissible, what liability if any would the Board be exposed to. Mr. Huebsch responded that there were be no liability of a punitive nature to the Board members. However Mr. Huebsch added that should the Board not approve to include a certain item in which the Successor Agency staff contends and continues to dispute, the DOF would make the argument that the item cannot be recognized since it was not included on the ROPS and would therefore create a greater challenge for the Successor Agency in litigating with the DOF. Mr. Cardinale added that the Successor agency would be deprived the opportunity to meet and discuss with the DOF should the Oversight Board not approve the new items.

Francesca Tucker-Schuyler, City Administrator, clarified and responded to questions posed by the Board. There was further discussion amongst legal counsel on amending language on the resolutions presented by staff. With respect to items 39-42, language would ensure that the city does not get the money on the ROPS, in addition to its property tax remittance. Items 38 and 46 - amend language with the understanding that no double payment would incur and should any double payments occur, the city would remit such amounts; with the exception of item 38 as it is a retroactive payment that the city has not yet received.

Vice Chair Hidalgo made a motion to approve the ROPS as presented with amendments to include language as proposed by Oversight Board Counsel on Item 46, 39 through 42 and to include item 45 on the ROPS. Both Oversight Board and Successor Agency Counsel agreed that both would work together to amend language.

On motion of Vice Chair Hidalgo, seconded by Board Member Delgado, duly carried by the following vote, the Board adopted a Resolution, approving the Recognized Obligation Payment Schedule for the Montebello Successor Agency for the July 1, 2014 through December 31, 2014 payment period (ROPS 14-15A) as amended:

Ayes: 5 - Board Members Barnuevo, Cisneros, Delgado, Plotkin and Vice Chair Hidalgo

Absent: 1 - Chair Bruckner

Vacancies: 1 - Board Member Appointee

Attachments: [Staff Report, ROPS 14-15A, and Resolution](#)

VI. MISCELLANEOUS

5. Matters not on the posted agenda (to be presented and placed on the agenda of a future meeting). (14-0839)

Francesca Tucker-Schuyler, City Administrator, indicated that the Successor Agency's Long Range Property Management Plan (LRPMP) will be available to the Board Members in late March or early April. Ms. Tucker-Schuyler added that there may not be a need for the regular Oversight Board meeting in March, however recommended to continue with the regular meeting in April.

6. Public Comment. (14-0840)

There were no public speakers.

Francesca Tucker-Schuyler, City Administrator, thanked and expressed her gratitude to the Board Members for allowing the City of Montebello its due process.

Ms. Tucker-Schuyler recommended that the Board cancel the regular meeting in March and adjourn to the April 2, 2014 meeting, at which time the Long Range Property Management Plan (LRPMP) would be presented. Board Member Cisneros asked what the deadline date is to act on the LRPMP item. Christopher Cardinale, Successor Agency Legal Counsel, explained that the deadline is six (6) months from issuance of the Finding of Completion (FOC) by the Department of Finance (DOF), however noted that though the Successor Agency has not yet received its FOC, staff wish to present the LRPMP in anticipation of the FOC.

Mark Huebsch, Oversight Board Legal Counsel, questioned the practice of submitting a LRPMP before a FOC has been received and inquired whether staffs intentions are to seek an acknowledgment or agreement from the DOF that the LRPMP would be processed before a FOC is given. Mr. Cardinale indicated no, not necessarily and that staff's intention is to have the LRPMP available and ready to submit as soon as the FOC is received as to avoid any further delays. Mr. Cardinale concluded that Board approval before the FOC is received, would further expedite that process. Mr. Huebsch advised that there is a possibility the DOF could require the LRPMP to go back to the Board for re-approval once a FOC is issued.

Vice Chair Hidalgo implied that both views of the DOF's actions are speculative at this point. Mr. Cardinale concurred.

7. Adjournment. (14-0841)

On motion of Board Member Cisneros, seconded by Vice Chair Hidalgo, unanimously carried (Chair Bruckner being absent), the Board canceled the regular Oversight Board meeting of March 5, 2014 and adjourned to the regular Oversight Board meeting of April 2, 2014 at 8:15 a.m.

The meeting was adjourned at 9:45 a.m.